

EXHIBIT 40

Hours Billed By Attorneys and Other Class Counsel Personnel in Comparable PSLRA Cases Cited in the Miller Declaration ¶ 58 (\$550 - \$800 million) and in the Coffee Declaration ¶ 17 (\$490 - \$690 million) that were at the Discovery Stage Prior to Settlement

Order	Total Settlement Amount	Fee Awarded	Fee Percentage Awarded (as percentage of the Gross Settlement Amount)	Total Lodestar	Lodestar Multiplier	Passed motion to dismiss stage and commenced discovery prior to settlement?	Total Hours
<i>Carlson v. Xerox Corp.</i> , 596 F. Supp. 2d 400 (D. Conn. 2009)	\$ 750,000,000	\$ 120,000,000	16.00%	\$ 95,942,272.25	1.25	✓	290,760
<i>In re Lucent Techs., Inc. Sec. Litig.</i> , 327 F. Supp. 2d 426 (D.N.J. 2004)	\$ 608,350,000	\$ 102,477,500	16.85%	\$ 47,863,379.25	2.14	✓	79,764
<i>In re Countrywide Fin. Corp. Sec. Litig.</i> , No. 07 Civ. 05295 (C.D. Cal. Mar. 04, 2011) (Dkt. No. 1062)	\$ 601,500,000	\$ 46,472,000	7.73%	\$ 69,190,643.25	0.67	✓	182,711
<i>In re Cardinal Health Inc. Sec. Litig.</i> , 528 F. Supp. 2d 752 (S.D. Ohio 2007)	\$ 600,000,000	\$ 107,580,000	17.93%	\$ 18,378,122.75	5.85	✓	51,970
<i>In re Initial Public Offering Sec. Litig.</i> , 671 F. Supp. 2d 467 (S.D.N.Y. 2009)	\$ 586,000,000	\$ 170,084,950	29.02%	\$ 378,000,000.00	0.45	✓	677,082
<i>In re Lehman Bros. Sec. and ERISA Litig.</i> , No. 09 MD 2017 (S.D.N.Y. June 29, 2012) (Dkt. No. 970)	\$ 516,218,000	\$ 56,729,265	10.99%	\$ 37,819,510.00	1.50	✓	91,876
<i>In re BankAmerica Corp. Sec. Litig.</i> , 228 F. Supp. 2d 1061 (E.D. Mo. 2002)	\$ 490,000,000	\$ 86,416,085	17.64%	\$ 28,805,990.75	3.00	✓	81,443
Coffee Range - Average Number of Hours \$490-690 million ¹							194,141 ²
Miller Range - Average Number of Hours \$550-800 million							256,457

¹ In this case, counsel included 115,342.33 hours in their application for reimbursement. See Joint Decl. Ex. D.

² As this chart just addresses cases that passed the motion to dismiss prior to settlement, it does not include one of the cases cited in the Coffee and Miller declarations because discovery did not commence in that action prior to settlement. *In re Wachovia Preferred Sec. and Bond/Notes Litig.*, No. 09 Civ. 06351 (S.D.N.Y. 2012).

Supplemental Declaration Exhibit 40

Hours Billed By Attorneys And Other Class Counsel Personnel

In Cases Cited in Frank March 15, 2013 Br. at 5

that were at the Discovery Stage Prior to Settlement

The highlighted cases are discussed in the Miller declaration ¶ 58 (\$550 - \$800 million) and in the Coffee declaration ¶ 17 (\$490 - \$690 million)

Order	Total Settlement Amount	Fee Awarded	Fee Percentage Awarded (as percentage of the Gross Settlement Amount)	Total Lodestar	Lodestar Multiplier	Passed motion to dismiss stage and commenced discovery prior to settlement?	Total Hours
<i>In re HealthSouth Corp. Sec. Litig.</i> , No. 03 Civ. 1500 (N.D. Ala.) (Dkt. Nos. 1112, 1617, 1721, 1722)	\$ 804,500,000 ¹	\$ 138,199,100	17.18%	\$ 115,167,204.35	1.20	✓	221,499.63
<i>In re Lucent Techs., Inc. Sec. Litig.</i> , 327 F. Supp. 2d 426 (D.N.J. 2004)	\$ 608,350,000 ²	\$ 102,477,500	16.85%	\$ 47,863,379.25	2.14	✓	79,764
<i>In re Countrywide Fin. Corp. Sec. Litig.</i> , No. 07 Civ. 05295 (C.D. Cal. Mar. 04, 2011) (Dkt. No. 1062)	\$ 601,500,000	\$ 46,472,000	7.73%	\$ 69,190,643.25	0.67	✓	182,711
<i>In re Cardinal Health Inc. Sec. Litig.</i> , 528 F. Supp. 2d 752 (S.D. Ohio 2007)	\$ 600,000,000	\$ 107,580,000	17.93%	\$ 18,378,122.75	5.85	✓	51,970
<i>In re Initial Public Offering Sec. Litig.</i> , 671 F. Supp. 2d 467 (S.D.N.Y. 2009)	\$ 586,000,000	\$ 170,084,950	29.02%	\$ 378,000,000.00	0.45	✓	677,082
<i>In re Lehman Bros. Sec. and ERISA Litig.</i> , No. 09 MD 2017 (S.D.N.Y. June 29, 2012) (Dkt. No. 970)	\$ 516,218,000	\$ 56,729,265	10.99%	\$ 37,819,510.00	1.50	✓	91,876
<i>In re Dynegy, Inc. Sec. Litig.</i> , No. H-02-1571 (S.D. Tex. July 7, 2005) (Dkt. No. 686)	\$ 474,050,000	\$35,151,482 and \$5,933,476 in stock	8.73%	\$ 10,162,041.75	4.04	✓	26,607
Average Number of Total Hours ³							190,216 ³

Footnotes:

¹ Frank represented this figure as \$537.5 million. Frank March 15, 2013 Br. at 5. There were several different settlements in HealthSouth against various defendants over the course of 3 years: \$445 million in 2008, \$109 million in 2009, \$117 million in 2010, and \$133.5 million in 2010 for the Bonds case. Attorneys' fees of \$77,875,000 of \$445 million, or 17.5%, was approved in 2008, \$20,154,100 of \$109 million, or 18.49%, was approved in 2009, \$22,815,000 of \$117 million, or 19.5%, was approved in 2010 and \$17,355,000 of \$133.5 million, or 13%, was approved in 2010 for the Bonds case. The fee percentage and lodestar information here represent the aggregate of all the settlements.

² Frank represented this figure as \$517 million. Frank March 15, 2013 Br. at 5. There were several different settlements in *Lucent Techs.* for various classes: \$517 million (made up of cash, stock and warrants) for the common shareholders class, \$69 million for the ERISA class, \$4.6 million for an individual plaintiff, \$3.75 million for debt security holders, and \$14 million for the derivative plaintiffs. Attorneys' fees were \$87.89 million (or 17%), \$10.35 million (or 15%), \$920,000 (or 20%), \$937,500 (or 25%) and \$2.38 million (or 17%) for each respective class. The fee percentage and lodestar information here represent the aggregate of all the settlements.

³ In this case, counsel included 115,342.33 hours in their application for reimbursement. See Joint Decl. Ex. D.

⁴ As this chart just addresses cases that passed the motion to dismiss prior to settlement, it does not include two of the cases cited on page 5 of Frank's March 15, 2013 Brief, because discovery did not commence in those actions prior to settlement. *In re Wachovia Preferred Sec. and Bond/Notes Litig.*, No. 09 Civ. 06351 (S.D.N.Y. 2012); *In re Merrill Lynch & Co., Inc., Sec., Deriv. and ERISA Litig.*, No. 07 Civ. 9633 (S.D.N.Y. 2009).